



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[EPA-HQ-SFUND-1986-0005; FRL-9927-72-Region 5]**

**National Oil and Hazardous Substance Pollution Contingency Plan;**

**National Priorities List: Deletion of the Burrows Sanitation Superfund Site**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) Region 5 is publishing a direct final Notice of Deletion of the Burrows Sanitation Superfund Site (Site), located in Hartford Township, Van Buren County, Michigan from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Michigan, through the Michigan Department of Environmental Quality (MDEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion is effective **[insert date 60 days after the date of publication in the Federal Register]** unless EPA receives adverse comments by **[insert date 30 days after the date of publication in the Federal Register]**. If adverse

comments are received, EPA will publish a timely withdrawal of the direct final deletion in the *Federal Register* informing the public that the deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1986-0005, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.
- Email: Jeffrey Gore, Remedial Project Manager, at [gore.jeffrey@epa.gov](mailto:gore.jeffrey@epa.gov) or Cheryl Allen, Community Involvement Coordinator, at [allen.cherly@epa.gov](mailto:allen.cherly@epa.gov)
- Fax: Gladys Beard, NPL Deletion Process Manager at (312) 697-2077.
- Mail: Jeffrey Gore, Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886-6552, or Cheryl Allen, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353-6196 or (800) 621-8431.
- Hand delivery: Cheryl Allen, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

*Instructions:* Direct your comments to Docket ID no. EPA-HQ-SFUND-1986-0005.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at:

- U.S. Environmental Protection Agency – Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

Phone: (312) 353-1063

Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

- **Hartford Public Library**

15 Franklin Street

Hartford, MI 49057

Phone: (269) 621-3408

Hours: Monday through Wednesday, 10:00 a.m. to 7:00 p.m., Thursday and Friday 10:00 a.m. to 5:00 p.m., Saturday 10:00 a.m. to 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Gore, Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886-6552, or [gore.jeffrey@epa.gov](mailto:gore.jeffrey@epa.gov)

**SUPPLEMENTARY INFORMATION:**

Table of Contents:

I. Introduction

II. NPL Deletion Criteria

III. Deletion Procedures

IV. Basis for Site Deletion

V. Deletion Action

**I. Introduction**

EPA Region 5 is publishing this direct final Notice of Deletion of the Burrows Sanitation Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300,

which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This deletion of the Burrows Sanitation Site is issued in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Deletion of Site Listed on the National Priorities List, (49 FR 37070) on September 21, 1989. As described in 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective **[insert date 60 days after the date of publication in the Federal Register]** unless EPA receives adverse comments by **[insert date 30 days after the date of publication in the Federal Register]**. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the “*Proposed Rules*” section of the *Federal Register*. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Burrows Sanitation Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the site from the NPL unless adverse comments are received during the public comment period.

## **II. NPL Deletion Criteria**

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews at these

sites even if the site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

### **III. Deletion Procedures**

The following procedures apply to deletion of the Burrows Sanitation Site:

- (1) EPA consulted with the State of Michigan prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the “*Proposed Rules*” section of the *Federal Register*.
- (2) EPA has provided the State thirty (30) working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the State, through the MDEQ, has concurred on the deletion of the Site from the NPL.
- (3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, the “Tri-City Record Newspaper”. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.
- (4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.
- (5) If adverse comments are received within the 30-day public comment

period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

#### **IV. Basis for Site Deletion**

The following information provides EPA's rationale for deleting the Burrows Sanitation Superfund Site from the NPL.

##### **Site Background and History**

The Burrows Sanitation Site (CERCLIS ID: MID98410617) is approximately 10 acres. The Site is located on 54<sup>th</sup> Avenue in Hartford Township, Van Buren County, Michigan. The property is located in a rural part of Hartford on a portion of property owned by a resident of Hartford Township. Much of the Site is covered with trees, and there are intermittent open areas to the east and northwest of the Site. The property owner lives west of the Site and another homeowner lives south of the Site across 54<sup>th</sup> Avenue. There are approximately 150 people living in residences further west along 54<sup>th</sup>



Avenue in a trailer park and a small number of other homes. The residences have historically obtained water from private wells that vary in depth up to 100 feet.

The Site property became contaminated when it was owned by Duane and Evelyn Funk, who agreed to allow Burrows Sanitation, a small septic hauler, to dispose of waste on a remote portion of their property. Burrows Sanitation disposed of wastes on the Site which it had collected from Du-Wel Products Inc., Auto Specialties Manufacturing Company (AUSCO), and Whirlpool Corporation. The wastes were primarily by-products of metal finishing and plating operations, which consisted of hydroxide sludges containing chromium, other metals, as well as some cyanide. The metal hydroxide wastes were deposited in unlined pits when the disposal was taking place between 1970 and 1977.

### **Remedial Investigation and Feasibility Study**

In 1976, the Michigan Department of Natural Resources (MDNR) took samples from the Site and found elevated levels of copper, chromium and cyanide. In 1984, MDNR conducted further investigations which led it to conclude that the Site posed a human health threat. In July 1984, the Funks, Du-Wel, AUSCO and Whirlpool signed an Administrative Order of Consent (AOC). Pursuant to the AOC, this group of potentially responsible parties (PRPs) proceeded to excavate and remove sludges and contaminated soil from previously identified areas of the Site for off-site disposal.

EPA began remedial planning as the Burrows Sanitation Site was proposed for the NPL on September 8, 1983, (48 FR 40674). The Site was listed on the NPL on September 21, 1989, (49 FR 37070).

## **Record of Decision Findings**

The objectives of the 1986 Record of Decision (ROD) for the Site included the following:

The remedial action objectives for the selected remedy at the Burrows Sanitation Site are to protect human health by preventing dermal exposure and ingestion of contaminated sludge and soil from the site, prevent ingestion of contaminated groundwater exceeding drinking water criteria, and prevent exposure of aquatic life from contaminated surface waters. The remedy will achieve Safe Drinking Water Act Primary and Secondary Maximum Contaminant Levels (MCLs) by groundwater treatment and by surface and subsurface soil excavation and off-site disposal.

The components of the 1986 ROD for the Site included the following:

- Purge and treat the contaminated groundwater for approximately 3 years;
- Drain the artificial Northwest Wetland; and
- Remove and treat approximately 250 cubic yards of metal hydroxide sludge from the Spill Area No. 2 and the Northwest Wetland. Dispose of the treated waste at an off-site RCRA facility which is in compliance with EPA policy.

The 1991 Explanation of Significant Differences (ESD) for the Site included the following differences to the 1986 ROD:

- A scaled down groundwater extraction system based on additional groundwater monitoring since the 1986 ROD.
- Off-site treatment of contaminated groundwater instead of on-site treatment.

The 1991 ESD also documented that the soil removal and off-site disposal actions outlined in the 1986 ROD had been completed.

The 1994 ESD for the Site documented the change in the EPA MCL for chromium which was raised from 50 ppb to 100 ppb (effective July 30, 1992).

### **Response Actions**

The first phase of the Remedial Action (RA) was completed in May, 1989. During this first phase of the RA, 320 cubic yards of contaminated surface soils and sediments from the spill area identified in the RI/FS were excavated and transported off-site to a RCRA facility. The soil removal was based on soil sampling investigation results completed and reported in 1986, which outlined the area of contaminated soil and how deeper soils for the location at the water table produced chemical concentrations comparable to background. The blockage in the artificial Northwest Wetland was removed and re-channeled. As a result, only the groundwater remained to be treated.

The additional groundwater investigations undertaken in 1989 involved the installation of five new PVC monitoring well nests on the Site. Three rounds of additional groundwater sampling were completed at the Burrows Site in 1990, one each in March, June, and September of that year. Groundwater samples were analyzed for the chemicals of concern, which included dissolved zinc, dissolved chromium, dissolved copper, dissolved lead, and dissolved nickel. Analytical results for the three rounds of groundwater sampling determined that all chemicals of concern were below the groundwater cleanup standards except for an exceedance of dissolved chromium.

The groundwater extraction system including an extraction well, storage tank, and associated equipment for extracting groundwater and removing it for off-site treatment

was constructed at the Site between July and September 1991. Groundwater extraction began at the Burrows Site in August of 1992 and continued until December 1993. During that period a total of 2,600,000 gallons of groundwater were extracted and taken for off-site treatment and disposal to the Kalamazoo, Michigan Water Reclamation Plant.

Remedial Action construction activities officially concluded in April of 1993 with the completion and signing of the Preliminary Close-Out Report for the Burrows Site.

### **Institutional Controls**

Institutional Controls (“ICs”) are non-engineered instruments, such as administrative and legal controls, that help to minimize the potential for exposure to contamination and that protect the integrity of the remedy. ICs are required to assure the long-term protectiveness for any areas which do not allow for unlimited use and unrestricted exposure (UU/UE). As explained further, none of EPA’s decision documents (ROD, ESD, CD or Amended CD) for this Site required ICs in order to assure Site protectiveness since UU/UE would be allowed for all Site areas. The remedy is considered by EPA to be protective of human health and the environment without the need for ICs.

EPA sent out a letter in October 1999 notifying the Burrows Settling Defendants of Completion of Remedial Action under the requirements of the 1992 Amended CD. Site access and use of the land by property owners is now unrestricted, based on completion of the remedial action requirements under the 1992 Amended CD. Both the 1990 CD and the 1992 Amended CD provided that after EPA certification of completion of the remedial action, additional response actions could be required if conditions previously unknown to the United States are discovered or information is received which

indicate that the remedial action is not protective of human health and the environment. EPA believes the remedial action completed at this Site is protective of human health and the environment, and it does not plan to require additional remedial action.

### **Cleanup Goals**

The post-ROD groundwater monitoring conducted to date by EPA shows that the groundwater has met the drinking water standards outlined in the decision documents and the Amended CD. Therefore, the remedial action conducted at the Site has achieved UU/UE for all site areas. Since the Site remedy has achieved UU/UE, no ICs are required at the Site to assure long-term protectiveness.

MDEQ has conducted independent residential well sampling in the area surrounding the Burrows Site through various County Health Departments from 2002 to 2014. EPA concurred with the MDEQ residential well sampling program. MDEQ contacted the Van Buren-Cass County District Health Department to arrange for sampling of local residential wells beginning in 2002. Van Buren-Cass County District Health Department implemented an annual sampling program for volatile organic compounds (VOCs) at local residential wells. The 2007 sampling results at the five locations were consistent with previous results, which demonstrated that the presence of volatile organic compounds was not detected at the residential wells sampled. MDEQ stated they planned to include metals in the residential well sampling program beginning in 2008.

Since the 2008 five year review, MDEQ coordinated with Berrien County to collect samples at local residential wells. The 2012 and 2013 results continued to show no detections of volatile organic compounds. Some of the locations were also sampled

for metals analysis. None of the metals were detected at concentrations above MCLs although residences exceeded the aesthetic drinking water value of 0.3 mg/l for iron in a range of 0.72 – 1.42 mg/l. Since no site-related impacts have been seen in the area residential well monitoring conducted over the last several years, MDEQ now believes that it is appropriate to delete the site from the NPL.

While MDEQ had historical concerns regarding the adequacy of groundwater plume characterization, MDEQ now agrees that the implemented remedial actions have been sufficient to address the known risks at the Site.

EPA has determined that the Site is subject to zoning by the local government and the Site is currently zoned for agricultural use. However, limiting the Site to agricultural land use is not a condition of the Superfund remedy.

### **Operation and Maintenance**

The implemented remedial actions have been sufficient to address the known risks at the Site. In addition, no-site related impacts have been seen in the residential wells that have been monitored by the MDEQ over the past several years.

Effective immediately, the MDEQ will terminate monitoring of the residential wells in the vicinity of the Burrows Sanitation Superfund Site.

### **Five-Year Review**

A Five Year Review Report for the Site was completed in February 2013. In the report, EPA viewed the Burrows Sanitation Site as eligible for deletion from the NPL. There were no recommendations and follow-up actions noted in the 2013 Five Year Review Report. Since all clean up goals have been achieved and the site is now unlimited use/unrestricted exposure no additional Five Year Reviews are necessary.

## **Community Involvement**

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this site from the NPL are available to the public in the information repositories and at <http://www.regulations.gov>.

## **Determination that the Site Meets the Criteria for Deletion in the NCP**

The implemented remedy achieves the degree of cleanup specified in the ROD for all pathways of exposure. All selected remedial action objectives and clean-up goals are consistent with agency policy and guidance. No further Superfund response is needed to protect human health and the environment at the Site.

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Michigan, has determined that all required response actions have been implemented and no further response action by the responsible parties is appropriate.

## **V. Deletion Action**

EPA, with concurrence from the State of Michigan through the Michigan Department of Environmental Quality, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective **[insert date 60 days after the date of publication in the Federal Register]** unless EPA receives adverse comments by **[insert date 30 days after the date of publication in the Federal**

**Register**]. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, and Water supply.

Dated: April 30, 2015.

Susan Hedman,  
Regional Administrator,  
Region 5.



For the reasons set out in this document, 40 CFR part 300 is amended as follows:

**PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION  
CONTINGENCY PLAN**

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601-9657; E.O. 13626, 77 FR 56749, 3CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

**Appendix B to Part 300—[Amended]**

2. Table 1 of appendix B to part 300 is amended by removing the entry “MI Burrows Sanitation, Hartford.”

[FR Doc. 2015-11801 Filed: 5/14/2015 08:45 am; Publication Date: 5/15/2015]